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Chapter 9 Counsel for Tulare Local Healthcare District

IN THE UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

In re

CASE NO. 17-13797

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER,

Chapter 9

DC No.: WW-93

Debtor.

Date: April 11, 2019

Time: 9:30 a.m.

Tax ID #: 94-6002897
Address: 869 N. Cherry Street
Tulare, CA 93274

Place: 2500 Tulare Street
Fresno, CA 93721
Courtroom 13

Judge: Honorable René Lastreto II

**TWELFTH OMNIBUS MOTION FOR ORDER AUTHORIZING
REJECTION OF CERTAIN EXECUTORY CONTRACTS**

TO THE HONORABLE RENÉ LASTRETO II, UNITED STATES BANKRUPTCY
JUDGE:

Debtor, Tulare Local Healthcare District, doing business as Tulare Regional
Medical Center ("Debtor" or the "District") hereby moves the Court, pursuant to 11
U.S.C. §§ 901, 365, and FRBP 6006(f), for entry of an order authorizing the District to

1 reject certain executory contracts¹ ("Designated Contracts") as follows:

2 1. This Motion is based on the Motion, Exhibit, Notice, and Declaration of
3 Sanford Haskins in Support of the Motion.

4 2. A list of the Designated Contracts is attached hereto as Exhibit "A" and
5 specifies the following information as to each of the Designated Contracts: (1) contract
6 party, and (2) a description of the subject contract.

7 3. 11 U.S.C. §§ 901 and 365(a) allow for the rejection of any executory
8 contract subject to court approval. FRBP 6006 further allows for omnibus rejection of
9 contracts, provided that, among other things, the list of contracts to be rejected is
10 limited to no more than 100 contracts per motion. FRBP 6006(f).

11 4. The standard for reviewing whether a contract should be assumed or
12 rejected is one of business judgment. Group of Institutional Investors v. Chicago,
13 Milwaukee, St. Paul and Pacific R.R. Co., 318 U.S. 523, 550 (1943). In applying the
14 "business judgment standard, courts show great deference to a debtor's decision to
15 assume [or reject] executory contracts, with only a cursory review of [the debtor's]
16 decision...." In re Pomona Valley Medical Group, Inc., 476 F.3d 665, 670 (9th Cir.
17 2007). As long as the decision to assume or reject such contracts is a reasonable
18 exercise of business judgment, a court should approve the assumption or rejection of
19 an executory contract. See e.g. NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984).

20 5. The District has determined that the Designated Contracts are no longer
21 needed or desired. See Declaration of Sanford Haskins. Accordingly, based on its
22 sound business judgment, the District hereby seeks authority to reject the Designated
23 Contracts.

24 6. Rejection of the Designated Contracts is essential to Debtor's successful
25 reorganization because the Designated Contracts provide no ongoing benefit to

26 ¹ While the District recognizes that the contracts sought to be rejected may not constitute "executory contracts"
27 within the meaning of 11 U.S.C. § 365, the District wishes to reject these contracts nonetheless out of an abundance
28 of caution and for the avoidance of any doubt.

1 Debtor. If Debtor were to continue performance under the Designated Contracts and
2 their unfavorable terms Debtor's reorganization would be harmed.

3 7. Based on the foregoing, Debtor has satisfied the requirements of 11
4 U.S.C. § 365 and FRBP 6006(f). Therefore, the Court is requested to issue an order
5 authorizing the rejection of the Designated Contracts.

6 **WHEREFORE**, the Debtor respectfully requests that the Court enter an order:

7 (1) Authorizing the rejection of the Designated Contracts; (2) fixing the date
8 by which any claims based on this Motion must be filed; and (3) grant such other relief
9 as is just and proper.

10 Dated: March 25, 2019

WALTER WILHELM LAW GROUP,
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12 By: Riley C. Walter
13 Riley C. Walter, Attorneys for Debtor,
14 Tulare Local Healthcare District dba Tulare
15 Regional Medical Center
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